

REMARKS

These remarks are set forth in response to the non-final office action mailed March 16, 2004 (the "Office Action"). As this amendment has been filed one month past the three-month statutory period, an extension of time of one-month and a corresponding fee has been included along with this Response. Presently, claims 1 through 20 are pending in the Patent Application. In the Office Action, each of claims 1 through 20 have been rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 5,949,876 to Ginter et al. Additionally, each of claims 1 through 20 have been rejected under 35 U.S.C. § 101 as lacking utility. In response, the Applicant respectfully traverses the rejections on the art and based upon 35 U.S.C. § 101.

Prior to addressing the rejections on the art, a brief review of the Applicant's invention would be appropriate. The Applicant has invented a new, useful and non-obvious system, method and apparatus for moderating external access to an electronic document authoring, development and distribution system. The invention as claimed relates to permitting potential users of a document authoring system to utilize selected features of the system while other features can be restricted, for example saving or printing features. Once the potential users register with the system, the restrictions on the features can be lifted. Importantly, third parties can provide electronic submissions of Web assets to the system for use by other users. If the provided Web assets are distributed to other users, the providing third parties can be compensated. In this way, third parties can be encouraged to create and provide Web assets to the system for use by others without requiring the operator of the system to create and provide Web assets.

Turning now to the rejections on the art, the Examiner has recited 35 U.S.C. § 101 in rejecting each claim of the Applicant's patent application. In this regard, the Examiner alleges that the recited invention is not a "computer program, data structure, a natural phenomenon, and a non-descriptive material per se." The Examiner continues that the claimed invention is "not a specific tangible machine or process for facilitating a business transaction." This allegation is incorrect. In fact, claim 1 clearly defines a specific tangible process for facilitating a business transaction. Moreover, claim 11 explicitly recites a computer apparatus. The Applicant will refer specifically to the holding in State Street & Trust Co. v. Signature Financial Group, Inc.,

149 F.3d 1368 (Fed. Cir. 1998) in which the Court quite clearly stated that computer implemented and non-computer implemented business processes are to be analyzed on the basis of §§ 102 and 103 and not on the basis of § 101 as even the most pure business methods are to be considered patentable subject matter.

Referring to the rejections based upon the Ginter reference, Ginter relates to digital rights management and electronic rights protection. Nowhere in Ginter is access to a document authoring, development and distribution system discussed in which access at first is restricted, and only subsequently granted without restriction when a third party registers with the system as required by the plain language of claims 1 and 11. Importantly, the plain language of claims 8 and 18 require that a third party is compensated for submitting Web assets which are distributed to others in the use of the document authoring, development and distribution system. Again, Ginter does not mention such an idea. Accordingly, the Applicant respectfully requests that the Examiner withdraw all rejections based upon the Ginter reference, or alternatively provide specific places within Ginter which include teachings directed towards the explicit claim language of the Applicant's patent application. The Examiner is encouraged to telephone the undersigned to discuss any matter that would expedite allowance of the present application.

Respectfully submitted,

Date: July 16, 2004



Adam C. Underwood
Reg. No.: 45,169
Attorney for Applicant(s)
Christopher & Weisberg, P.A.
200 East Las Olas Boulevard, Suite 2040
Fort Lauderdale, Florida 33301
Customer No. 31292
Tel: (954) 828-1488
Fax: (954) 828-9122